

1
2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN JOSE DIVISION**

9 FREE SPEECH SYSTEMS, LLC, a Texas
10 limited liability company,

11 Plaintiff,

12 vs.

13 PAYPAL, INC., a Delaware
14 corporation,

15 Defendant.

Case No. 5:18-cv-06013

16
17 **DECLARATION OF ALEX J. SHEPARD IN
18 SUPPORT OF PLAINTIFF'S EMERGENCY
19 MOTION FOR A TEMPORARY
20 RESTRAINING ORDER AND
21 PRELIMINARY INJUNCTION**

22 I, Alex J. Shepard, declare:

23 1. I am over 18 years of age and have never been convicted of a crime
24 involving fraud or dishonesty. I have first-hand knowledge of the facts set forth
herein, and if called as a witness, could and would testify competently thereto.

25 2. I am an attorney licensed to practice in the states of California and
26 Nevada.

27 3. I am an associate attorney at Randazza Legal Group, PLLC ("RLG"),
28 counsel for Plaintiff Free Speech Systems ("FSS") in this matter.

29 4. On October 1, 2018, while at the Las Vegas office of RLG and using
30 a MacBook Air laptop computer, I visited the home page of the <infowars.com>
31 web site, located at the url: <https://www.infowars.com/>. Immediately after visiting

1 the page, I printed the home page in PDF format. A true and correct version of
2 this printout is attached as **Exhibit 2** to Plaintiff's Emergency Motion for a
3 Temporary Restraining Order and Preliminary Injunction (the "Motion").

4 5. On October 1, 2018, while at the Las Vegas office of RLG and using
5 a MacBook Air laptop computer, I visited the home page of the
6 <prisonplanet.com> web site, located at the url: <https://www.prisonplanet.com/>.
7 Immediately after visiting the page, I printed the home page in PDF format. A
8 true and correct version of this printout is attached as **Exhibit 3** to the Motion.

9 6. On October 1, 2018, while at the Las Vegas office of RLG and using
10 a MacBook Air laptop computer, I visited the home page of the
11 <infowarsstore.com> web site, located at the url:
12 <https://www.infowarsstore.com/>. Immediately after visiting the page, I printed
13 the home page in PDF format. A true and correct version of this printout is
14 attached as **Exhibit 4** to the Motion.

15 7. On October 1, 2018, while at the Las Vegas office of RLG and using
16 a MacBook Air laptop computer, I visited the <techcrunch.com> web site and
17 viewed the article titled "Here are the platforms that have banned Infowars so
18 far," located at the url: <https://techcrunch.com/2018/08/08/all-the-platforms->
19 [that-have-banned-infowars/](https://techcrunch.com/2018/08/08/all-the-platforms-that-have-banned-infowars/). Immediately after visiting the page, I printed the
20 home page in PDF format. A true and correct version of this printout is attached
21 as **Exhibit 5** to the Motion.

22 8. On October 1, 2018, while at the Las Vegas office of RLG and using
23 a MacBook Air laptop computer, I visited the <paypal.com> web site and viewed
24 the article titled "PayPal Account Limitations: withdrawal & transfer limits,"
25 located at the url: <https://www.paypal.com/us/brc/article/understanding->
26 [account-limitations](https://www.paypal.com/us/brc/article/understanding-account-limitations). Immediately after visiting the page, I printed the home page

1 in PDF format. A true and correct version of this printout is attached as **Exhibit 7**
2 to the Motion.

3 9. On October 1, 2018, while at the Las Vegas office of RLG and using
4 a MacBook Air laptop computer, I visited the <paypal.com> web site and viewed
5 the PayPal Acceptable Use Policy, located at the url:
6 <https://www.paypal.com/us/webapps/mpp/ua/acceptableuse-full>.
7 Immediately after visiting the page, I printed the home page in PDF format. A
8 true and correct version of this printout is attached as **Exhibit 8** to the Motion.

9 10. On October 1, 2018, while at the Las Vegas office of RLG and using
10 a MacBook Air laptop computer, I used the Wayback Machine, available on the
11 <archive.org> web site. The Wayback Machine is an online archiving program
12 that stores screenshots of various web sites taken at various different times to
13 create an accurate archive of what web sites displayed at different times. I
14 visited an archived screenshot of the <paypal.com> page containing PayPal's
15 Acceptable Use Policy, located at the url:
16 <https://web.archive.org/web/20180614133459/https://www.paypal.com/us/we>
17 [bapps/mpp/ua/acceptableuse-full](https://web.archive.org/web/20180614133459/https://www.paypal.com/us/we/bapps/mpp/ua/acceptableuse-full). Immediately after visiting the page, I printed
18 the home page in PDF format. A true and correct version of this printout is
19 attached as **Exhibit 9** to the Motion.

20 11. On October 1, 2018, while at the Las Vegas office of RLG and using
21 a MacBook Air laptop computer, I visited the <paypal.com> web site and viewed
22 the PayPal User Agreement, located at the url:
23 <https://www.paypal.com/us/webapps/mpp/ua/useragreement-full>.
24 Immediately after visiting the page, I took screenshots of relevant portions of the
25 User Agreement. A true and correct version of these screenshots is attached as
26 **Exhibit 10** to the Motion.

1 12. On October 1, 2018, while at the Las Vegas office of RLG and using
2 a MacBook Air laptop computer, I visited the <paypal.com> web site and viewed
3 the Policy Updates page, located at the url:
4 <https://www.paypal.com/us/webapps/mpp/ua/upcoming-policies-full>.
5 Immediately after visiting the page, I printed the home page in PDF format. A
6 true and correct version of this printout is attached as **Exhibit 11** to the Motion.

7 13. On October 1, 2018, while at the Las Vegas office of RLG and using
8 a MacBook Air laptop computer, I visited the <foxnews.com> web site and
9 viewed the article titled "PayPal bans Infowars over hate speech," located at the
10 url: <https://www.foxnews.com/tech/paypal-bans-infowars-over-hate-speech>.
11 Immediately after visiting the page, I printed the home page in PDF format. A
12 true and correct version of this printout is attached as **Exhibit 12** to the Motion.

13 14. On October 1, 2018, while at the Las Vegas office of RLG and using
14 a MacBook Air laptop computer, I visited the <independent.co.uk> web site and
15 viewed the article titled "PayPal bans Alex Jones, saying Infowars 'promoted hate
16 or discriminatory intolerance,'" located at the url:
17 [https://www.independent.co.uk/news/world/americas/paypal-bans-alex-jones-](https://www.independent.co.uk/news/world/americas/paypal-bans-alex-jones-infowars-far-right-youtube-twitter-a8549851.html)
18 [infowars-far-right-youtube-twitter-a8549851.html](https://www.independent.co.uk/news/world/americas/paypal-bans-alex-jones-infowars-far-right-youtube-twitter-a8549851.html). Immediately after visiting the
19 page, I printed the home page in PDF format. A true and correct version of this
20 printout is attached as **Exhibit 13** to the Motion.

21 15. On October 1, 2018, while at the Las Vegas office of RLG and using
22 a MacBook Air laptop computer, I visited the <theverge.com> web site and
23 viewed the article titled "PayPal bans Infowars for promoting hate," located at
24 the url: [https://www.theverge.com/2018/9/21/17887138/paypal-infowars-ban-](https://www.theverge.com/2018/9/21/17887138/paypal-infowars-ban-alex-jones-hate-speech-deplatform)
25 [alex-jones-hate-speech-deplatform](https://www.theverge.com/2018/9/21/17887138/paypal-infowars-ban-alex-jones-hate-speech-deplatform). Immediately after visiting the page, I printed
26 the home page in PDF format. A true and correct version of this printout is
attached as **Exhibit 14** to the Motion.

1
2 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the
3 foregoing is true and correct to the best of my knowledge.
4

5 Executed on October 1, 2018
6 /s/ Alex J. Shepard
7 Alex J. Shepard
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26